

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOHN JOSEPH ROTHENBECKER, JR. and
SHEILA ROTHENBECKER, his wife

v.

3M COMPANY

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NOTICE OF REMOVAL

To: The Honorable Judges of the United States District Court
for the Middle District of Pennsylvania

Defendant, 3M Company, by and through counsel, Lavin, O'Neil, Cedrone & DiSipio, hereby file this Notice of Removal of the above-described action to the United States District Court for the Middle District of Pennsylvania from the Court of Common Pleas of Luzerne County, Pennsylvania, where the action is now pending, as provided by 28 U.S.C. §§ 1332, 1441 and 1446 and invokes the jurisdiction of this Honorable Court on the following grounds:

1. The above-entitled action was commenced in the Court of Common Pleas of Luzerne County, Pennsylvania, on March 13, 2017 by the filing of a Complaint. A copy of Plaintiffs' Complaint is attached and marked Exhibit "A."

2. Plaintiffs' claims against the defendants sound in negligence and strict liability, and arise out of plaintiff John Joseph Rothenbecker's alleged use of 3M respiratory protection products while he was a member of the Sheet Metal Workers Union from 1984 until 2015. See Exhibit "A" at paragraph 3.

3. Plaintiff allegedly resides in the state of Pennsylvania. See Exhibit "A."

4. Defendant 3M Company is the only named defendant in the suit. See Exhibit “A.”

5. 3M Company is a Delaware corporation whose principal place of business is in the State of Minnesota.

6. Therefore, defendant 3M Company is neither incorporated in Pennsylvania nor does it have a principal place of business in Pennsylvania, which is the state of plaintiffs’ domicile.

7. Where a complaint does not limit its request to a precise monetary amount, the district court makes “an independent appraisal of the value of the claim.” *Angus v. Shiley, Inc.*, 989 F.2d 142, 146 (3d Cir. 1993). In such a case, the party seeking removal need only demonstrate by a preponderance of the evidence that the amount in controversy exceeds \$75,000.00. *Frederico v. Home Depot*, 407 F.3d 188, 194-196 (3d Cir. 2007). The amount in controversy may be evidenced by demonstrating that the claims, as asserted in the plaintiffs’ complaint, are likely above the jurisdictional minimum. *Id.* at 197.

8. Given the nature of the injuries and damages alleged in Plaintiffs’ Complaint, which includes a request for punitive damages, the amount in controversy, as pleaded, is in excess of \$75,000.00. See Exhibit “A.”

9. Therefore, this lawsuit is removable from State Court to the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. §1332, §1441 and §1446.

10. This Notice of Removal is timely in that it is being filed within 30 days after service of the Complaint upon 3M Company.

11. Pursuant to 28 U.S.C. §1446(a), a true and correct copy of all process, pleadings, and accompany documents served on 3M Company are attached hereto as Exhibit “A.”

12. By filing this Notice of Removal, 3M Company does not waive any jurisdictional or other defenses that might be available to them.

13. Attached hereto as Exhibit "B" is the Notice of Removal which is being filed with the Court of Common Pleas of Luzerne County, Pennsylvania.

14. Pursuant to 28 U.S.C. §1446(d), written Notice of Removal is being given to opposing counsel.

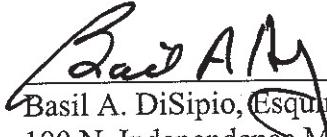
WHEREFORE, defendant 3M Company respectfully requests that this action be removed from the Court of Common Pleas of Luzerne County, Pennsylvania to the United States District Court for the Middle District of Pennsylvania.

Respectfully Submitted,

LAVIN, O'NEIL, CEDRONE & DISIPIO

Date: April 3, 2017

BY:


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